

REMARKS

Claims 1-50 are pending in this application, with claims 1-23 withdrawn from consideration. As discussed below Group IV is elected without traverse and Group IV-A is elected with traverse.

The Examiner gave a restriction requirement identifying four groups as follows:

- Group I: Claims 1-9 method of assembling a seat;
- Group II: Claims 10 and 11 method of making an insert;
- Group III: Claims 12-23 method of ventilating a seat;
- Group IV: Claims 24-50 method of cooling a seat.

The Examiner further divided Groups III and IV into sub-groups with only the sub-groups of Group IV being relevant:

- Group IV-A: Claims 25-27 cooling a seat with a thermoelectric device;
- Group IV-B: Claims 28-30 cooling a seat with a heat exchanger;
- Group IV-C: Claims 31-45 cooling a seat with a mixing region disposed within an insert;
- Group IV-D: Claim 46 cooling a seat with a foam seat cushion.

The Examiner noted that claims 24 and 47-50 are generic.

While Applicants have elected Group IV without traverse, the Applicants have elected, from among the sub-groups, Group IV-A, with traverse. Applicants assert that Group IV is not properly subdivided into sub-groups and that searching the entire group would not impose a serious burden on the Examiner.

As recited in the MPEP, § 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants believe that the features shown and described in the claims of Group IV are related to the same field of art. As noted by the Examiner, all the claims of Group IV are searchable under Class 29, subclass 415. However, the Examiner did not identify the putative classes for the claims in the sub-groups of Group IV, indicating that all of the claims of Group IV are of the same putative class. This means that the classification search will not be overly burdensome.

Moreover, the Examiner's bare conclusion that the sub-groups are independent or distinct is insufficient. No explanation is offered about what makes the sub-groups independent or distinct from one another.

In contrast, there is overlapping subject matter within the claims of Group IV, which tends to show that the claims are not independent or distinct from one another. For example:

- claim 27 from sub-group A, claim 30 from sub-group B and claim 37 from sub-group C all relate to thermoelectric devices;
- claim 42 from sub-group C and claim 47, a generic claim, both relate to exhausting mixed air;
- claim 43 from sub-group C and claim 48, a generic claim, both relate to recirculating air;
- claim 26 from sub-group A, claims 41 and 44 from sub-group C and claim 49, a generic claim, all relate to maintaining the pressure below ambient so that the mixed air does not pass through the seating surface; and
- claim 27 from sub-group A, claims 40 and 45 from sub-group C and claim 50, a generic claim, all relate to preventing mixed air from passing through the seating surface.

As can be seen, to search the generic claims will mean that Groups A and C will also be at least partially searched; similarly, searching sub-group A will also mean at least partially searching sub-groups B and C. Thus, the search of the generic claims and sub-group A will mean that portions of sub-groups B and C will also be searched and to fully search sub-groups B and C would not be a serious burden.

Also, two significant information disclosure statements have already been filed by the Applicants, which should reduce the burden on the Examiner in conducting the search.

In sum, searching all of Group IV would not impose a serious burden on the Examiner. Applicants request that the restriction of Group IV into sub-groups be reversed and that all of the claims of Group IV be examined on the merits.

CONCLUSIONS

Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should

the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (319) 594-2200.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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